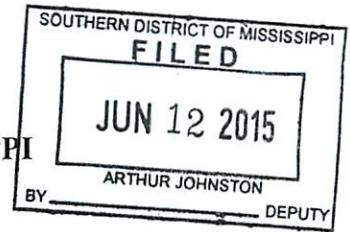


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION



MCCRANEY MONTAGNET QUIN & NOBLE, PLLC

PLAINTIFF

v.

CAUSE NO.

3:15cv425 DPJ-FKB

SANFORD MILLER

DEFENDANT

COMPLAINT

COMES NOW, McCraney Montagnet Quin & Noble, PLLC ("Plaintiff") and files this Complaint against Sanford Miller ("Defendant"), as follows:

Parties, Jurisdiction & Venue

1. Plaintiff is a professional limited liability company organized and existing under the laws of the State of Mississippi, having a principal place of business of Ridgeland, Madison County, Mississippi. Each of the Plaintiffs' members is a resident of the state of Mississippi.

2. Defendant is an individual Florida resident who resides in Ormond Beach, Volusia County, Florida, and may be served with process at his place of residence, 28 Broadriver Road, Ormond Beach, Florida 32174.

3. This dispute arises out of Defendant's failure and refusal to pay the Plaintiff for legal services rendered in Mississippi in connection with litigation in this Court. There is complete diversity of citizenship between the parties and the amount in controversy exceeds the federal jurisdictional minimum for diversity jurisdiction. Accordingly, this Court has jurisdiction over the parties and the subject matter, and venue is proper in this Court.

II. FACTUAL ALLEGATIONS

4. On or about March 7, 2013, Defendant requested that Plaintiff represent him in *U-Save Auto Rental of America, Inc. v. Sandy Miller*, U.S. District Court for the Southern District of Mississippi – Civil Action No. 3:13-cv-127 LG-JMR, wherein Defendant was defending a declaratory judgment action concerning the nature and effect of his termination, and in which Defendant would assert counterclaims against his former employer. Plaintiff served as lead counsel for Defendant in that action until January 7, 2014. Thereafter, Plaintiff provided support for other counsel who continued to represent Defendant through the settlement of that matter, which occurred on or about August 7, 2014. As of the date of this filing, Defendant owes Plaintiff \$39,114.40 for unpaid fees and expenses incurred in that representation.

5. On or about March 7, 2013, Defendant also requested that Plaintiff represent him in *Thomas P. McDonnell, III v. Sanford Miller*, U.S. District Court for the Southern District of Mississippi – Civil Action No. 3:12-cv-697 CWR-FKB, in which Defendant was defending against breach of contract claims arising from Defendant's execution of an alleged promissory note. Plaintiff represented Defendant in that action through trial, which began on or about April 2, 2014. As of the date of this filing, Defendant owes Plaintiff \$79,098.43 for unpaid fees and expenses incurred in that representation.

6. On or about December 31, 2013, Defendant requested Plaintiff to represent him in *Assurance Company of America v. U-Save Auto Rental of America, Inc., Franchise Services of North America, Inc., Thomas P. McDonnell, III, and Sanford Miller* - U.S. District Court for the Southern District of Mississippi – Civil Action No. 3:13-cv-766 WHB-RHW, in which Defendant was named in an insurance dispute between U-Save and its insurer and which arose out of the *U-Save* litigation identified above. Defendant represented Plaintiff in that action

through settlement of that matter which took place on or about December 19, 2014. As of the date of this filing, Defendant owes Plaintiff \$5,600.50 for unpaid fees and expenses incurred in that representation.

7. During the course of Plaintiff's representations of the Defendant in the above referenced matters, Defendant fell behind on his invoices, but Plaintiff continued to represent Defendant because Defendant continued to assure that payment was forthcoming. Defendant was in substantial arrears throughout the course of the trial in the *McDonnell* case, but Plaintiff continued to represent Defendant. Following the return of a verdict in Defendant's favor in the *McDonnell* matter, Defendant assured Plaintiff that all amounts owed would be paid in full. However, Defendant did not follow through with that promise, ultimately necessitating this action.

8. On April 14, 2015, Plaintiff notified Defendant that his failure to pay the amount owed would result in litigation wherein Plaintiff would also seek attorney fees, as authorized under Miss. Code Ann. §11-53-81. Thirty days have elapsed since that notice without Defendant making any payment or arrangements to pay the debt.

III. CLAIMS

Count I – Breach of Open Account Contract

9. Plaintiff incorporates all preceding paragraphs.

10. Defendant entered into a contract with the Plaintiff, pursuant to which Defendant agreed to pay Plaintiff to represent him in connection with the above-referenced matters.

11. Defendant owes a remaining balance on his account, and has failed to pay after receiving notice and opportunity to cure his breach.

12. The amounts owed are liquidated, entitling Plaintiff to pre-judgment interest on all amounts owed.

13. Pursuant to Miss. Code Ann. §11-53-81, Plaintiff is also entitled to payment of fees and expenses associated with collecting the amounts owed.

Count II - Quantum Meruit

14. Plaintiff incorporates all preceding paragraphs.

15. Plaintiff had a reasonable expectation of compensation for the services rendered, and equity requires that Defendant pay for those services. Plaintiff seeks *quantum meruit* recovery for the reasonable value of services rendered to the Defendant.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests judgment in the amount of \$123,813.33, plus pre-judgment interest, post-judgment interest, and for an award of attorney fees and expenses associated with all efforts to collect the subject amounts, including all fees and expenses associated with prosecuting this action, through trial and appeal.

This the 9th day of June, 2015

Respectfully submitted,

MCCRANEY MONTAGNET QUIN & NOBLE, PLLC



W. Thomas McCraney, III (MS Bar # 10171)

OF COUNSEL:

MCCRANEY MONTAGNET QUIN & NOBLE, PLLC
602 Steed Rd., Suite 200
Ridgeland, MS 39157
Phone: 601-707-5725
Facsimile: 601-510-2939